

REMARKS

Applicant thanks the Examiner for the telephone interview with Applicant's representative on October 30, 2008. The Examiner and Applicant's representative discussed the Examiner's Amendment that accompanied the Notice of allowance, the Drawings, the priority of the application, and a reference, as set forth herein.

The Examiner approved the hand-drawn Figures 8A and 8B in the Notice of Allowance. The Replacement Sheet submitted herewith sets forth a formal version of each of the Figures 8A and 8B. No new matter has been added to the drawings.

In the Notice of Allowance dated October 20, 2008, the Examiner allowed the claims as amended by an Examiner's Amendment. The claims set forth hereinabove include, in non-marked-up format, the Examiner's Amendments set forth in the Notice of Allowance, with one exception. Specifically, Applicant noted that the Examiner's amendment: "In claim 23, line 15: after 'phases' insert --such that the second end terminates in the trachea of the patient--" contained a typographical error, as the word "phases" does not appear in claim 23. In the October 30, 2008 telephone interview, the Examiner stated that the insertion should be made after the word "patient". In accordance with the Examiner's request in the October 30, 2008 telephone interview, Applicant has inserted --such that the second end terminates in the trachea of the patient-- in claim 23, at line 15 as the claim appeared in Applicant's July 2, 2008 amendment, after "patient". This amendment appears in underlined format.

Reference DE 196 26 924 was cited on a Form SB/08, and a copy of the reference was submitted, with an Information Disclosure Statement ("IDS") on January 20, 2006, and Examiner Teena Mitchell considered the drawings. A copy of WO 98/01176 was also filed with the January 20, 2006 IDS. WO 98/01176 claims priority to DE 196 26 924 and contains an English abstract, which was also considered by Examiner Mitchell. As Applicant's representative discussed with the Examiner in the October 30, 2008 telephone interview, the text translation of DE 196 26 924 was not cited on the January 20, 2006 Form SB/08 signed by Examiner Mitchell, and a copy of the translation does not appear in the Image File Wrapper for the present application.

Applicant is resubmitting previously submitted reference DE 196 26 924 (see January 20, 2006 Form SB/08), along with a translation of the text, and a Form SB/08 citing the

reference, adding "and English Translation", and checking box T⁶. Applicant respectfully requests that the Examiner sign the Form SB/08 submitted herewith.

Finally, Applicant notes with appreciation that, in the October 20, 2008 Notice of Allowance, the Examiner acknowledged the present application's claim for foreign priority under 35 U.S.C. § 119 and acknowledged that a certified copy of the priority document had been received. In accordance with the Examiner's suggestion, Applicant is filing herewith a Request for Corrected Official Filing Receipt, to correct the priority application number to read "GERMANY 103 37 138.9 08/11/2003" in lieu of "GERMANY 20/40963-001 08/11/2003".

In view of the above amendment, Applicant believes the pending application is in condition for allowance. Applicant respectfully requests that the Examiner issue a Supplemental Notice of Allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-2228, from which the undersigned is authorized to draw, under Order No. 023189.0101PTUS.

Dated: October 30, 2008

Respectfully submitted,

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Attachments